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8 UNITED STATES DISTRICT COURT  
9 NORTHERN DISTRICT OF CALIFORNIA

10 SEAPLANE ADVENTURES, LLC, a  
11 California Limited Liability Company,

12 Plaintiff,

13 vs.

14 COUNTY OF MARIN, CALIFORNIA;  
15 AND DOES 1 THROUGH 10,  
INCLUSIVE,

16 Defendants.  
17  
18  
19

) Case No. 20-cv-06222-WHA  
)  
)

) DECLARATION OF ANDREW WAIT IN  
) SUPPORT OF PLAINTIFF'S OPPOSITION  
) TO MOTION FOR SUMMARY JUDGMENT  
)  
)

) Complaint filed: September 2, 2020  
) Trial Date: December 8, 2021  
)  
)

) DATE: October 7, 2021  
) TIME: 8:00AM  
) JUDGE: Honorable William Alsup  
) DEPT.: Courtroom 12, 19th Floor  
)  
)  
)

20  
21 I, Andrew Wait, declare as follows:

- 22 1. I am over the age of eighteen years old, and I make this declaration in support of Plaintiff's  
23 Opposition to Motion for Summary Judgment. I have personal knowledge of the facts stated  
24 herein and, if called as a witness in this matter, I could and would competently testify to the  
25 facts set forth below.  
26 2. I keep an airplane at Gness Field Airport in Novato, California, in a hangar that I lease. I was  
27 keeping the airplane in that hangar in March 2020, and I continue to keep that airplane in the  
28

1 hanger. As a pilot, I understand commercial imperatives of 14 CFR 135 ("Part 135")  
2 carriers. I understand the processes of hundred-hour inspections and annual inspections and  
3 pilot recertification and drug testing.  
4  
5 3. As such, I have directly observed the comings and goings of air carriers at Gness Field.  
6 From my direct observation, from March 2020 through September 2020, the County did not  
7 shut down any air carriers at Gness-Field airport in any capacity, other than Skydive Golden  
8 Gate. The Gness Field air carriers were fully operational for flight school, charter flights,  
9 takeoffs and landings. The County did not limit their operations in any way—they flew for  
10 all purposes, including "recreation."  
11  
12 4. The air charter businesses that I'm aware of that operate out of Gness Field were not shut  
13 down pursuant to the Health Orders or otherwise—this includes Scanlon Aviation, Wheels  
14 Up, and Aeroclub Marin. The flight schools were not shut down. The flight rental programs  
15 at Gness Field were not shut down. I am actually not aware of any other aviation business  
16 that the County shut down pursuant to the Health Orders, other than the skydiving business  
17 (which I do not consider "aviation.").  
18  
19 5. Even though there was no distinction between pleasure and essential travel, the other air  
20 travel companies operating out of Gness Field remained in operation throughout the time the  
21 Marin County Health Orders were in effect.  
22  
23 6. I also have two friends who are flight instructors with Aeroclub Marin. Based on direct,  
24 contemporaneous communications with them, I know that Aeroclub Marin was operating  
25 during March-September 2020 for flight instruction. I directly saw a student in one seat of  
26 the plane, and the instructor in the other. In addition, I believe that Aeroclub Marin rented  
27 aircraft for recreational flying during this time period. This belief is based on the fact that I  
28 know the owners, and I know some of the pilots that rented the aircraft, and they told me that  
they went for a flight. I also personally observed the flights that they took. I personally  
observed these aircraft departing Gness Field and returning to Gness Field in the same

1 aircraft—I believe that they were recreational flights because they took off and returned to  
2 the same airfield (Gross Field). I cannot imagine another purpose for these flights.

- 3 7. The County never informed any of the Gross Field airlines that they were required to shut  
4 down. To my knowledge, the County was aware that the Gross-Field airlines were  
5 continuing operations out of Gross Field Airport, despite the Health Orders—as the County  
6 owns Gross Field.
- 7 8. An airline is categorized pursuant to how it is certified pursuant to FAA regulations. Part 135  
8 does not distinguish between “recreational charter flights” and other charter flights. So, an  
9 airline is similar to another airline that is certified under Part 135, because if both airlines  
10 were certified pursuant to Part 135, that tells the FAA that both airlines are authorized to  
11 operate on-demand, unscheduled air service.

12  
13 I declare under penalty of perjury under the laws of the United States that the foregoing is true  
14 and correct. Executed this 15<sup>th</sup> day of September, 2021, at Greenbrae, California.

15  
16 \_\_\_\_\_ /s/

17 Andrew Wait

18  
19  
20 **SIGNATURE ATTESTATION**

21 I hereby attest that I have on file all holographic signatures corresponding to any  
22 signatures indicated by a conformed signature (/s/) within this e-filed document.

23 Dated: September 16, 2021

LAW OFFICES OF JOHN E. SHARP

24 By: \_\_\_\_\_ /s/

25 John E. Sharp

26 Attorney for Plaintiff  
27 SEAPLANE ADVENTURES, LLC